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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

J.K.G., a Minor,

Plaintiff,

vs.

**COUNTY OF SAN DIEGO, a public entity;
SAN DIEGO COUNTY SHERIFF
DEPUTY THOMAS SEIVER; SAN
DIEGO COUNTY SHERIFF DEPUTY
DETECTIVE BARBARA CROZIER; SAN
DIEGO COUNTY SHERIFF DEPUTY
JASON WARD; SAN DIEGO COUNTY
SHERIFF DEPUTY PAUL MEHAFFIE
III; SAN DIEGO COUNTY SHERIFF
SEARGANT GEORGE CALDERON, and
DOES 1 through 50, inclusive,**

Defendants.

Case No.: **'11CV0305 JLS RBB**

**COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL**

1. VIOLATION OF CIVIL RIGHTS (42 U.S.C. §1983);
2. VIOLATIONS OF CALIFORNIA UNRUH/BANES CIVIL RIGHTS ACT;
3. ASSAULT AND BATTERY;
4. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; and
5. NEGLIGENCE

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1343 for violations of the 1871 Civil Rights Enforcement Act, as amended, including 42 U.S.C. §1983 and 28 U.S.C. §1331.

2. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. §1367, because those claims are so related to the federal claims as to form part of the

1 same case or controversy for Article III purposes.

2
3 3. Venue is proper in this district under 28 U.S. C. §§1391(b) because the parties
4 reside and work in this district and the wrongful conduct of defendants took place in this district.

5 **PARTIES**

6 4. At all material times mentioned herein, Plaintiff J.K.G is and has been a minor
7 individual under the age of 18 years and resident of the County of San Diego, State of
8 California. Plaintiff was born in 1993.

9
10 5. Defendant COUNTY OF SAN DIEGO ("COUNTY") is and at all times
11 herein mentioned was a public entity existing under the laws of the State of California and is the
12 employer of the individually named Defendants below. At all times mentioned herein, Defendant
13 COUNTY has possessed and exercised the power and authority to adopt policies and prescribe
14 rules, regulations, oversight, and practices affecting the operation of the COUNTY's law
15 enforcement agency ("SHERIFF'S DEPARTMENT). Specifically, Defendant COUNTY has
16 possessed and exercised the power and authority to adopt policies and prescribe rules,
17 regulations and practices (including tactics, methods, practices, customs and usages) for its
18 SHERIFF'S DEPARTMENT Patrol, Internal Investigations, Training, and Personnel Divisions
19 as well as other operations and subdivisions presently unidentified to Plaintiff. Under California
20 Government Code §815.2, Defendant COUNTY is liable for all of the wrongful acts hereinafter
21 complained of committed by any of the individual San Diego County Sheriff Department
22 officer Defendants.
23
24

25 6. On June 29, 2010, a Claim against the COUNTY for Damages was filed with the
26 COUNTY on behalf of Plaintiff in substantial compliance with California Government Code
27 §910 et. seq.. Plaintiff's Claim was deemed denied by operation of law on August 13, 2010.
28

7. Plaintiff is informed and believes and thereupon alleges that Defendant SAN

1 DIEGO COUNTY SHERIFF DEPUTY THOMAS SEIVER ("DEPUTY SEIVER"), is and at all
2 relevant times mentioned herein was, a resident of the State of California and County of San
3 Diego. Further, at all times relevant to the acts and omissions herein alleged, DEPUTY SEIVER
4 was a deputy sheriff, and was acting in the course and scope of his employment with Defendant
5 COUNTY's SHERIFF'S DEPARTMENT. Plaintiff is informed and believes and thereupon
6 alleges that DEPUTY SEIVER's SHERIFF'S DEPARTMENT Badge Number is 7103.
7

8
9 8. Plaintiff is informed and believes and thereupon alleges that Defendant SAN
10 DIEGO COUNTY SHERIFF DEPUTY DETECTIVE BARBARA CROZIER ("DETECTIVE
11 CROZIER"), is and at all relevant times mentioned herein was, a resident of the State of
12 California and County of San Diego. Further, at all times relevant to the acts and omissions
13 herein alleged, DETECTIVE CROZIER was a deputy detective sheriff, and was acting in the
14 course and scope of her employment with Defendant COUNTY's SHERIFF'S DEPARTMENT.
15 Plaintiff is informed and believes and thereupon alleges that DEPUTY DETECTIVE
16 CROZIER's SHERIFF'S DEPARTMENT Badge Number is 2286.
17

18
19 9. Plaintiff is informed and believes and thereupon alleges that Defendant SAN
20 DIEGO COUNTY SHERIFF DEPUTY JASON WARD ("DEPUTY WARD"), is and at all
21 relevant times mentioned herein was, a resident of the State of California and County of San
22 Diego. Further, at all times relevant to the acts and omissions herein alleged, DEPUTY WARD
23 was a deputy sheriff, and was acting in the course and scope of his employment with Defendant
24 COUNTY's SHERIFF'S DEPARTMENT. Plaintiff is informed and believes and thereupon
25 alleges that DEPUTY WARD's SHERIFF'S DEPARTMENT Badge Number is 7139.
26

27 10. Plaintiff is informed and believes and thereupon alleges that Defendant SAN
28 DIEGO COUNTY SHERIFF DEPUTY PAUL MEHAFFIE III ("DEPUTY MEHAFFIE III"), is

1 and at all relevant times mentioned herein was, a resident of the State of California and County
2 of San Diego. Further, at all times relevant to the acts and omissions herein alleged, DEPUTY
3 MEHAFFIE III was a deputy sheriff, and was acting in the course and scope of his employment
4 with Defendant COUNTY's SHERIFF'S DEPARTMENT. Plaintiff is informed and believes
5 and thereupon alleges that DEPUTY MEHAFFIE's SHERIFF'S DEPARTMENT Badge
6 Number is 7355.
7
8

9 11. Plaintiff is informed and believes and thereupon alleges that Defendant SAN
10 DIEGO COUNTY SHERIFF SEARGANT GEORGE CALDERON ("SEARGANT
11 CALDERON"), is and at all relevant times mentioned herein was, a resident of the State of
12 California and County of San Diego. Further, at all times relevant to the acts and omissions
13 herein alleged, SEARGANT CALDERON was a sheriff with supervisory authority and
14 responsibility over the sheriff deputies working under him, and was acting in the course and
15 scope of his employment with Defendant COUNTY's SHERIFF'S DEPARTMENT. Plaintiff is
16 informed and believes and thereupon alleges that SEARGANT CALDERON's SHERIFF'S
17 DEPARTMENT Badge Number is 2262.
18
19

20 12. Plaintiff is unaware of the true names and capacities of Defendants sued
21 herein as DOES 1 through 50, Defendants. Plaintiff is informed and believes and thereupon
22 alleges that these DOE Defendants are legally responsible and liable for the incident,
23 injuries, and damages hereinafter set forth, and that each of said Defendants proximately
24 caused the injuries and damages by reason of neglect, carelessness, deliberate indifference,
25 intentional, willful or wanton misconduct in creating and otherwise causing the
26 incidents, conditions or circumstances hereinafter set forth, or by reason of direct or imputed
27 negligence or vicarious fault or breach of duty arising out of the matters alleged.
28

1 Plaintiff will seek leave amend this complaint to set forth said true names and identities of th
2 unknown DOE defendants when they are ascertained.
3

4 13. The individual Defendants named in this complaint are sued individually and in
5 their capacities as employees of Defendant COUNTY and the SHERIFF's DEPARTMENT.
6

7 14. Plaintiff is informed and believes and thereon alleges that at all times mentioned
8 herein each of the Defendants was the agent, servant, and/or employee of each of the remaining
9 Defendants and were, in doing the acts herein alleged, acting within the course and scope of such
10 agency, service and/or employment and with the permission, consent, and authority of other Co-
11 Defendants and each of them, and each is responsible in some manner for the occurrences
12 hereinafter alleged and the actions of each proximately caused Plaintiff's injuries.
13

14 FACTUAL ALLEGATIONS

15 15. Plaintiff re-alleges and incorporates by reference each and every allegation
16 contained in Paragraphs 1 through 14 as though fully set forth herein.
17

18 16. On December 29, 2009 at approximately 8:00 p.m. was visiting a friend who
19 worked at Jack In The Box restaurant located at 1056 Main Street in Ramona, an unincorporated
20 community in the County of San Diego. When Plaintiff was ready to leave and go home,
21 Plaintiff called his mom on his cell phone to have her pick him up. To pass the short wait for his
22 mom to pick him up, Plaintiff got on his skateboard and proceeded to ride west around the area
23 towards a shopping center located at 1000 Main Street, Ramona.
24

25 17. Plaintiff is informed and believes that at approximately 8:11 p.m. Defendant
26 DEPUTY SEIVER was at the 7-11 convenience store located two doors down from Jack In the
27 Box. A restaurant named Mi Ranchito is located between the Jack In the Box and 7-11
28 convenience store.

1
2 18. Plaintiff is informed and believes that Defendant DEPUTY SEIVER was
3 approached down by an employee of Mi Ranchito Restaurant named Alejandro Oro located at
4 1028 Main Street, Ramona. Plaintiff is further informed and believes that the Mi Ranchito
5 Restaurant employee approached Defendant DEPUTY SEIVER because a customer of the
6 restaurant had come into the restaurant and told him someone was tampering with employee's
7 cars in the back of the establishment. It was dark and there was no lighting where the employee
8 cars were parked. Mr. Oros went outside instantly in response to the customer's report and saw
9 no one by the employee cars.
10

11 19. While DEPUTY SEIVER was in the 7-11 convenience store parking lot
12 Defendant DEPUTY MEHAFFIE III walked up to DEPUTY SEIVER and met him. DEPUTY
13 MEHAFFIE III covered DETECTIVE SEIVER DEPUTY MEHAFFIE III saw DEPUTY
14 SEIVER drive after a mail riding a skateboard westbound through the 7-11 parking lot.
15

16 20. Plaintiff is informed and believes Defendant DEPUTY SEIVER noticed Plaintiff
17 riding his skateboard in the area near the 7-11 convenience store. Deputy Seiver recognized
18 Plaintiff due to prior policed contact with Plaintiff and Plaintiff's mother. DEPUTY SEIVER
19 then followed Plaintiff to a shopping center parking lot located at 1100 Main Street where
20 DEPUTY SEIVER stopped and searched Plaintiff. At the time of this incident, Plaintiff was 5'9"
21 tall and weighed approximately 130 lbs with a thin build. Plaintiff is informed and believes that
22 DEPUTY SEIVER is approximately 6'-6'1" and weighs approximately 200-210 lbs. Plaintiff
23 was intimidated by DEPUTY SEIVER's size, demeanor, and weapons.
24
25

26 21. DEPUTY SEIVER searched Plaintiff and found Plaintiff's cell phone. Without any
27 legal justification DEPUTY SEIVER seized Plaintiff's cell phone. Plaintiff asked to call his
28 mom and DEPUTY SEIVER refused. DEPUTY SEIVER then punched Plaintiff in the face

1 twice. DEPUTY SEIVER then choked Plaintiff, grabbed him, and threw him to the ground face
2 first. DEPUTY SEIVER then slammed and grinded Plaintiff's face onto the parking lot
3 pavement. Plaintiff bled from multiple locations on his face onto various areas of the pavement.
4 parking lot At no time did Plaintiff try to run, evade, or flee DEPUTY SEIVER. At no time did
5 Plaintiff hit, strike, kick or in any other manner assault and/or commit battery upon batter
6 DEPUTY SEIVER. DEPUTY SEIVER inappropriately pre-judged Plaintiff's possible
7 involvement merely because Plaintiff happened to be in the area, and DEPUTY SEIVER had
8 met Plaintiff and Plaintiff's family before, and that his harassment and subsequent physical
9 force and arrest were deliberate and without probable cause or any valid justification.
10
11

12 22. Defendant DEPUTY WARD was on patrol near the 1200 block of Main
13 Street issuing a citation and heard on the radio DEPUTY SEIVER air he was "fighting with
14 one". Defendant DEPUTY WARD pulled into the parking lot in the area of 1000 Main Street
15 and located Defendant DEPUTY SEIVER's patrol car. Defendant DEPUTY WARD saw
16 Plaintiff lying flat on his stomach and DEPUTY SEIVER kneeling on Plaintiff's buttock area.
17 DEPUTY SEIVER had one of Plaintiff's hands cuffed and was in the process of cuffing the
18 other hand when DEPUTY WARD arrived at the scene. DEPUTY WARD assisted DEPUTY
19 SEIVER get Plaintiff (who was bleeding and in pain) up off of the pavement and into the back
20 seat of DEPUTY SEIVER's patrol car.
21
22

23 23. After beating and hitting Plaintiff, DEPUTY SEIVER put handcuffs on Plaintiff
24 and put him in the back of the Deputy's patrol car. While in the patrol car Plaintiff continued to
25 bleed from his injuries. DEPUTY SEIVER drove back to Mi Ranchito Restaurant and
26 determined that there was no evidence of any vehicle tampering.
27
28

24. DEPUTY MEHAFFIE III met up with DEPUTY SEIVER in the MI

1 RANCHITO parking lot. DEPUTY MEHAFFIE III saw Plaintiff bleeding and handcuffed in the
2 backseat of DEPUTY SEIVER'S patrol car. At no time while Plaintiff was under arrest did
3 DEPUTY MEHAFFIE III attempt to obtain any medical care or treatment for Plaintiff.
4

5 25. DEPUTY SEIVER then transported Plaintiff to the Ramona Sheriff Substation for
6 booking. Plaintiff was not provided any medical attention for his head, arm, neck, and back
7 injuries. Plaintiff was released from the Sheriff Substation to his mother.
8

9 26. Immediately following Plaintiff's arrest, the individual Defendants corruptly
10 collaborated on the preparation and filing of false and misleading juvenile crime and use of force
11 reports giving the appearance DEPUTY SEIVER's beating and arrest of Plaintiff was lawful and
12 justified, falsely alleging Plaintiff tried to flee from DEPUTY SEIVER, falsely stating that
13 Plaintiff grabbed DEPUTY SEIVER's left arm in an attempt to get out from his grasp, falsely
14 stating Plaintiff struck the Deputy in the chest with his elbow and nearly struck
15 his face with his right elbow, falsely stating Plaintiff kicked backwards onto DEPUTY
16 SEIVER's legs and attempted to get up, falsely alleging Plaintiff's actions were becoming more
17 violent in order to justify DEPUTY SEIVER's striking of Plaintiff on the right side of his head
18 above his ear, and falsely alleged that Plaintiff struggled with DEPUTY SEIVER while the
19 Deputy was handcuffing Plaintiff.
20
21

22 27. All of the false statements were memorialized in incident and investigative reports
23 were authored by Defendant DEPUTY SEIVER, DEPUTY WARD, DEPUTY MEHAFFIE III,
24 and Defendant DETECTIVE CROZIER to cover up and rationalize the beating and false arrest
25 of Plaintiff. Defendant SEARGENT CALDERON, who supervised DEPUTY SEIVER and the
26 other named Defendant Deputies reviewed the false police narrative and use of force reports, and
27 signed off on them knowing, or should have been knowing, that the reports were false.
28

1
2 28. Based on the presumptive facial validity of false Sheriff reports concerning this
3 December 29, 2009 incident, a three count criminal Juvenile Court Petition alleging violations of
4 California was filed by the San Diego County District Attorney against Plaintiff. Plaintiff was
5 charged with one felony count of Resisting an Executive Officer (Penal Code §69), one
6 misdemeanor count of Obstructing/Resisting a Peace Officer (Penal Code§148 (a)(1), and one
7 misdemeanor count of Battery on A Peace Officer (Penal Code§243(b).
8

9 29. On June 11, 2010 the Adjudication hearing on the Juvenile Court Petition was
10 held before the Judge George W. Clarke. Witnesses were sworn and examined and evidence was
11 marked and received by the Court. After presentation by both the prosecution and defense, Judge
12 ordered the entire petition Dismissed.
13

14 **FIRST CAUSE OF ACTION**

15 **(VIOLATIONS OF CIVIL RIGHTS ACT [42 U.S.C. §1983])**

16 **(By Plaintiff Against All Defendants)**

17 30. Plaintiff refers to and re-pleads each and every allegation contained in
18 paragraphs 1 through 29 of this complaint, and by this reference incorporates the same herein
19 into this cause of action and makes each a part hereof.
20

21 31. At or around the hour of 8:11 p.m. on December 29, 2009, Plaintiff was waiting
22 for his mother to pick him up in a shopping center parking lot located at 1100 Main Street,
23 Ramona. Defendant DEPUTY THOMAS SEIVER negligently assessed the circumstances
24 presented to him, aggressively confronted and unjustifiably detained Plaintiff without probable
25 cause or reasonable suspicion that Plaintiff had committed a crime, or would commit a crime in
26 the future. Defendant DEPUTY THOMAS SEIVER illegally searched Plaintiff and seized
27 Plaintiff's cell phone. Plaintiff asked to call his mom and Defendant DEPUTY
28

1 SEIVER refused. Without warning or provocation, Defendant DEPUTY SEIVER
2 punched Plaintiff twice in the face, choked him, grabbed him, and threw him to the ground face
3 first. Defendant DEPUTY SEIVER then slammed and grinded Plaintiff's face on the
4 parking lot pavement.
5

6 32. Plaintiff posed no reasonable threat of violence to DEPUTY SEIVER or anyone
7 else and was not armed with any weapon. Prior to and during the time Plaintiff was assaulted
8 and battered, Plaintiff made no aggressive movements, no furtive gestures, and no physical
9 movements which would suggest to a reasonable officer that he was resisting arrest or delaying
10 an officer in the performance of his duties.
11

12 33. At all times prior to, during, and after the time Defendant DEPUTY SEIVER
13 assaulted and battered Plaintiff, he did not do anything which would provide any legal
14 justification or excuse for the involved deputy's conduct, and such conduct was unnecessary and
15 grossly excessive.
16

17 34. This cause of action is to redress the deprivation, under color of statute,
18 ordinance, regulation, policy, custom, practice or usage of rights, privileges, and immunities
19 secured to plaintiff by the Fourth Amendment to the Constitution of the United States, including,
20 but not limited to, the right to be free from unreasonable governmental seizures and the use of
21 excessive force.
22

23 35. Following the assault and battery by Defendant DEPUTY SEIVER put handcuffs
24 on Plaintiff and transported him in a patrol car to the SHERIFF'S DEPARTMENT substation in
25 Ramona. Plaintiff was bleeding as a result of the excessive force. After arriving at the Ramona
26 SHERIFF'S DEPARTMENT substation, the involved deputies, including Defendant DEPUTY
27 SEIVER, DEPUTY WARD, DEPUTY CROZIER, DEPUTY MEHAFFIE III and DOES 1
28

1 through 50, denied medical care to Plaintiff in a manner that demonstrated deliberate
2 indifference to his constitutional rights. All of the acts of the Defendants were done intentionally,
3 maliciously, and with willful disregard for the rights of Plaintiff.
4

5 36. Plaintiff is informed and believes and thereupon alleges that at all times
6 mentioned herein, the Defendant COUNTY employed Defendant DEPUTY
7 SEIVER, DEPUTY WARD, DEPUTY CROZIER, DEPUTY MEHAFFIE III, SEARGANT
8 CALDERON and DOES 1 -50. The Defendant COUNTY provided DEPUTY
9 SEIVER, DEPUTY WARD, DEPUTY CROZIER, DEPUTY MEHAFFIE III, SEARGANT
10 CALDERON and DOES 1 – 50 with official badges and identification cards which designated
11 and described these individual defendants as employees of the COUNTY and the SAN DIEGO
12 COUNTY SHERIFF'S DEPARTMENT.
13
14

15 37. At all times mentioned herein, Defendants, and each of them,, separately and in
16 concert, acted under color and pretense of law, under color of the statutes, ordinances,
17 regulations, policies, practices, customs and usages of the State of California and COUNTY.
18 Each of the Defendants, separately and in concert, deprived Plaintiff of the rights, privileges and
19 immunities secured to Plaintiff by the Fourth Amendment to the United States Constitution and
20 the laws of the United States, including, but not limited to:
21

- 22 a. the right to be free from unreasonable searches and seizures;
23 b. the right to be free from the use of excessive force.
24

25 38. On December 29, 2009 DEPUTY SEIVER assaulted and battered Plaintiff, as
26 previously described. DEPUTY SEIVER's assault and battery constituted excessive,
27 unjustifiable, and unreasonable force in violation of Plaintiff's constitutional right to be free from
28 unreasonable searches and seizures and the use of excessive force. In addition to the above

1 alleged conduct, Plaintiff was subjected to the above deprivations as a result of the failure of the
 2 COUNTY to properly train DEPUTY SEIVER; further, Plaintiff was subjected to the above
 3 deprivations as a result of the COUNTY's hiring and retention of DEPUTY SEIVER, in that it
 4 was plainly obvious to the County and Sheriff's Department that the involved deputy was a
 5 dangerous and violent employee, prone to physically batter and harass people he perceives to be
 6 a problem for him, and in a manner that demonstrates callous disregard for the rights and safety
 7 of third parties, and/or use unreasonable and unlawful physical force without legal justification,
 8 all of which was indicative of a policy, practice, and custom of the COUNTY to negligently hire
 9 police officers and/or deputy sheriffs.

12 39. The facts alleged above in this complaint are part of the customs, practices,
 13 policies and decisions of Defendant COUNTY, including, but not limited to, the following:

- 15 a. Using excessive force on citizens;
- 16 b. Refusing to supervise, reprimand, and/or discipline law enforcement
 17 officers/deputies who engage in misconduct contrary to the laws, rules and regulations, thus
 18 condoning the use of excessive force, conducting of unlawful searches and seizures, and
 19 preparing false police reports by officers, deputies and agents;
- 21 c. Inadequate training and supervising employees of the governmental entity,
 22 Defendants, herein, with respect to the apprehension of suspects, the existence of probable cause,
 23 the reasonable and proper use of force, and the investigation of police misconduct.

24 40. The above acts and/or omissions of the Defendants, and each of them, were
 25 undertaken while under color of state law and resulted in the violation of Plaintiff's
 26 constitutional rights, as stated herein. Likewise, the customs, practices, policies, and decisions
 27 of the COUNTY alleged herein and as applied to Plaintiff resulted in violation of Plaintiff's
 28

1 constitutional rights.

2
3 41. The above acts, omissions, customs, practices, and/or decisions of the COUNTY,
4 while carried out under color of law, have no justification or excuse in law, and instead constitute
5 a gross abuse of governmental authority and power, shock the conscience, are fundamentally
6 unfair, arbitrary and oppressive, and unrelated to any activity in which governmental officers may
7 appropriately legally undertake in the course of protecting persons or property, or ensuring civil
8 order. The above acts, omissions, decisions, customs, practices, or policies were consciously
9 chosen from among various alternatives.
10

11 42. Plaintiff is informed and believes, and thereupon alleges, that the details of this
12 incident (as detailed in this complaint) have been revealed to the authorized policymakers within
13 the COUNTY and the SHERIFF'S DEPARTMENT, and that such policymakers have direct
14 knowledge of the fact that this incident was not justified, but rather represented an
15 unconstitutional display of unreasonable, excessive force. Notwithstanding this knowledge, the
16 authorized policymakers within the COUNTY and the SHERIFF'S DEPARTMENT have
17 approved of Defendant DEPUTY SEIVER'S conduct, and have made a deliberate choice to
18 endorse DEPUTY SEIVER'S conduct and the basis for that conduct. By so doing, the
19 authorized policymakers within the COUNTY and the SHERIFF'S DEPARTMENT have shown
20 affirmative agreement with the individual Defendant deputy's actions, and have ratified the
21 unconstitutional acts of Defendant DEPUTY SEIVER.
22
23

24 43. Each of the individual Defendants and Defendant COUNTY acted in concert, and
25 each of the individual Defendants acted willfully, outrageously, maliciously, with reckless
26 disregard and callous indifference, causing Plaintiff to suffer severe emotional suffering and
27 mental distress, physical pain and injury a criminal trespass, the indignity of an illegal arrest,
28

1
2 booking, groundless criminal prosecution, fear, anxiety, and mental anguish.

3 44. Plaintiff has the Fourth Amendment right to be free from unreasonable searches
4 and seizures, the right to be free from punishment absent criminal conviction, and the right to be
5 free from the use of unreasonable and excessive force. All of these rights and privileges are
6 secured to Plaintiff by the provisions of the Fourth Amendment to the United States Constitution
7 and by 42 U.S.C. §1983. All of these rights were violated by the wrongful conduct of the
8 Defendants, and each of them which proximately caused severe injuries and damage to Plaintiff.
9

10 45. Each of the individual Defendants, including DEPUTY SEIVER, and the
11 COUNTY acted in concert, and each of the individual defendants acted willfully, knowingly,
12 with reckless disregard and callous indifference, and purposefully with the intent to deprive
13 Plaintiff of his rights and privileges, and did in fact violate his aforementioned rights and
14 privileges thereby justifying exemplary and punitive damages against the individual
15 Defendants sued herein.
16

17 46. As a proximate result of the above-mentioned Defendants' conduct, and each of
18 them, Plaintiff has been required to employ physicians and other healthcare providers to
19 examine, treat and care for his injuries, and has incurred other incidental medical expenses in an
20 amount according to proof at trial.
21

22 47. As a further result of these acts and/or omissions, Plaintiff has lost past and future
23 wages and his earning capacity has been diminished in an amount to be determined according to
24 proof at trial.
25

26 48. Plaintiff is entitled to and hereby demands costs, attorney fees and expenses
27 pursuant to 42 U.S.C. §1988.
28

SECOND CAUSE OF ACTION

(VIOLATIONS OF CALIFORNIA UNRUH/BANES CIVIL RIGHTS ACT)

(By Plaintiff Against All Defendants)

49. Plaintiff refers to and re-pleads each and every allegation contained in paragraphs 1 through 48 of this complaint, and by this reference incorporates the same herein into this cause of action and makes each a part hereof.

50. On or about the above stated dates, Defendants, and each of them violated Plaintiff's civil rights, guaranteed by the United States Constitution, federal law, The California 51.7, 52(b) and 52.1(h).

51. As a proximate result of the aforementioned acts of Defendants, and each of them, Plaintiff suffered damages as set forth in this complaint in amounts to be determined according to proof at trial.

52. Additionally, as a proximate result of the aforementioned acts of Defendants, and each of them, Plaintiff is entitled to and hereby demands statutory damages, treble damages, attorney fees and costs provided by California Civil Code §§ 52 and 52.1 (h).

THIRD CAUSE OF ACTION

(ASSAULT AND BATTERY)

(By Plaintiff Against All Defendants)

53. Plaintiff refers to and re-pleads each and every allegation contained in paragraphs 1 through 52 of this complaint, and by this reference incorporates the same herein into this cause of action and makes each a part hereof.

54. At or around the hour of 8:11 p.m. on December 29, 2009, Plaintiff was waiting for his mother to pick him up in a shopping center parking lot located at 1100 Main Street,

1 Ramona. Defendant DEPUTY THOMAS SEIVER negligently assessed the circumstances
2 presented to him, aggressively confronted and unjustifiably detained Plaintiff without probable
3 cause or reasonable suspicion that Plaintiff had committed a crime, or would commit a crime in
4 the future. Defendant DEPUTY THOMAS SEIVER illegally searched Plaintiff and seized
5 Plaintiff's cell phone. Plaintiff asked to call his mom and Defendant DEPUTY
6 SEIVER refused. Without warning or provocation, Defendant DEPUTY SEIVER
7 punched Plaintiff twice in the face, choked him, grabbed him, and threw him to the ground face
8 first. Defendant DEPUTY SEIVER then slammed and grinded Plaintiff's face on the
9 parking lot pavement.
10

11
12 55. Plaintiff posed no reasonable threat of violence to DEPUTY SEIVER nor anyone
13 else. Prior to and during the time Plaintiff was assaulted and battered, Plaintiff made no
14 aggressive movements, no furtive gestures, and no physical movements which would suggest to
15 a reasonable officer that he was resisting arrest or delaying an officer in the performance of his
16 duties.
17

18
19 56. At all times prior to, during, and after the time Defendant DEPUTY SEIVER
20 assaulted and battered Plaintiff, he did not do anything which would provide any legal
21 justification or excuse for the involved deputy's conduct, and such conduct was unnecessary and
22 grossly excessive.
23

24 57. Following the assault and battery by Defendant DEPUTY SEIVER put handcuffs
25 on Plaintiff and transported him in a patrol car to the SHERIFF'S DEPARTMENT substation in
26 Ramona. Plaintiff was bleeding as a result of the excessive force. After arriving at the Ramona
27 SHERIFF'S DEPARTMENT substation, the involved deputies, including Defendant DEPUTY
28 SEIVER, DEPUTY WARD, DEPUTY CROZIER, DEPUTY MEHAFFIE III and DOES 1

1 through 50, denied medical care to Plaintiff in a manner that demonstrated deliberate
2 indifference to his constitutional rights. All of the acts of the Defendants were done intentionally,
3 maliciously, and with willful disregard for the rights of Plaintiff.
4

5 58. Each of the individual Defendants and Defendant COUNTY acted in concert, and
6 each of the individual Defendants acted willfully, outrageously, maliciously, with reckless
7 disregard and callous indifference, causing Plaintiff to suffer severe emotional suffering and
8 mental distress, physical pain and injury a criminal trespass, the indignity of an illegal arrest,
9 booking, groundless criminal prosecution, fear, anxiety, and mental anguish.
10

11 59. As a proximate result of the above-mentioned Defendants' conduct, and each of
12 them, Plaintiff has been required to employ physicians and other healthcare providers to
13 examine, treat and care for his injuries, and has incurred other incidental medical expenses in an
14 amount according to proof at trial.
15

16 60. As a further result of these acts and/or omissions, Plaintiff has lost past and future
17 wages and his earning capacity has been diminished in an amount to be determined according to
18 proof at trial.
19

20 61. The above-described acts of the individual Defendants were intended to cause
21 injury to Plaintiff and were carried out with a conscious disregard for the rights and safety of
22 Plaintiff and others, thereby justifying exemplary and punitive damages against the individual
23 Defendants sued herein.
24

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28 ///

FOURTH CAUSE OF ACTION

(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

(By Plaintiff Against All Defendants)

62. Plaintiff refers to and re-pleads each and every allegation contained in paragraphs 1 through 61 of this complaint, and by this reference incorporates the same herein into this cause of action and makes each a part hereof.

63. On or about December 29, 2009 and thereafter, Plaintiff was entitled to the duty of due care by Defendants, and each of them, including, but limited to, the care, service and protection by Defendants.

64. On or about December 29, 2009 and thereafter, Defendants unlawfully detained Plaintiff, caused Plaintiff to be arrested on false charges without reasonable cause, subjected Plaintiff to excessive and unreasonable force and an illegal arrest and booking. In addition, Defendants unlawfully conspired among themselves to cover up their own misconduct, subject Plaintiff to false and unjust juvenile court proceedings, and thwart Plaintiff's right to recover damages against them.

65. Each of the individual Defendants and Defendant COUNTY acted in concert, and each of the individual Defendants acted willfully, outrageously, maliciously, with reckless disregard and callous indifference, causing Plaintiff to suffer severe emotional suffering and mental distress, a criminal trespass, the indignity of an illegal arrest, booking, groundless criminal prosecution, fear, anxiety, and mental anguish.

66. As a direct and proximate result of the foregoing, Plaintiff has suffered and continues to suffer mental and emotional distress and is entitled to and demands damages against Defendants jointly and severally, including, but not limited to general and punitive damages and

1 attorney fees.

2 **FIFTH CAUSE OF ACTION**

3 **(NEGLIGENCE)**

4 **(By Plaintiff Against All Defendants)**

5
6 67. Plaintiff refers to and re-pleads each and every allegation contained in paragraphs
7 1 through 66 of this complaint, and by this reference incorporates the same herein into this cause
8 of action and makes each a part hereof.

9
10 68. On or about December 29, 2009 and thereafter, Plaintiff was entitled to the duty
11 of due care by Defendants and each of them.

12 69. On or about December 29, 2009, Defendants and each of them, breached the duty
13 of due care owed to Plaintiff in Defendants acted unreasonably and negligently caused Plaintiff
14 injury, harm, and damage.

15
16 70. As a direct and proximate cause of the wrongful and negligent acts and/or
17 omissions of each of the Defendants, Plaintiff has suffered and continues to suffer severe mental
18 anguish, as well as mental and physical injury.

19
20 71. As a proximate result of the above-mentioned Defendants' conduct, and each of
21 them, Plaintiff has been required to employ physicians and other healthcare providers to
22 examine, treat and care for his injuries, and has incurred other incidental medical expenses in an
23 amount according to proof at trial.

24 72. As a further result of these acts and/or omissions, Plaintiff has lost past and future
25 wages and his earning capacity has been diminished in an amount to be determined according to
26 proof at trial.

27
28 ///

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

AS TO EACH CAUSE OF ACTION AS APPLICABLE

1. For General damages in an amount to be determined according to proof;
2. For Special damages according to proof;
3. For Punitive damages as provided by law, in an amount to be proved against each individual Defendant;
4. For attorney's fees pursuant to 42 U.S.C. §1988 and California Civil Code §§52 and 52.1 (h);
5. For Costs of suit; and,
6. For such other and further relief as the Court may deem proper.

DATED: February 14, 2010

Respectfully submitted,

JULIE M. KIEHNE-LAMKIN
ATTORNEY AT LAW

By:



JULIE M. KIEHNE-LAMKIN, Esq.
Attorney for Plaintiff J.K.G., a Minor

JURY DEMAND

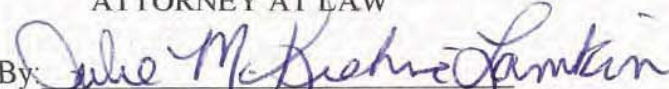
Plaintiff J.K.G., a Minor hereby demands a jury trial in this action.

DATED: February 14, 2010

Respectfully submitted,

JULIE M. KIEHNE-LAMKIN
ATTORNEY AT LAW

By:



JULIE M. KIEHNE-LAMKIN, Esq.
Attorney for Plaintiff J.K.G., a Minor

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

J.K.G., a Minor

(b) County of Residence of First Listed Plaintiff SAN DIEGO
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Julie M. Kiehne-Lamkin Attorney at Law, 1762 Main Street, Suite E
#116, Ramona, CA 92065 (760) 787-0629

DEFENDANTS

County of San Diego, a public entity (see Attachment for additional Defendants)

County of Residence of First Listed Defendant SAN DIEGO
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

'11CV0305 JLS RBB**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC Section 1983

Brief description of cause:
Violation civil rights-excessive force

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ over 1,000,000 CHECK YES only if demanded in complaint:
according to pro. JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

02/14/2011

SIGNATURE OF ATTORNEY OF RECORD

Julie M. Kiehne-Lamkin

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ATTACHMENT TO CIVIL COVER SHEET

ADDITIONAL DEFENDANTS:

SAN DIEGO COUNTY SHERIFF DEPUTY THOMAS SEIVER; SAN DIEGO COUNTY SHERIFF DEPUTY DETECTIVE BARBARA CROZIER; SAN DIEGO COUNTY SHERIFF DEPUTY JASON WARD; SAN DIEGO COUNTY SHERIFF DEPUTY PAUL MEHAFFIE III; SAN DIEGO COUNTY SHERIFF SEARGANT GEORGE CALDERON, and DOES 1 through 50, inclusive